

§ 555.58 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to conduct the business or operations under the license or permit of the partnership. If the surviving partner acquires the business or operations on completion of settlement of the partnership, he shall obtain a license or permit in his own name from the date of acquisition, as provided in § 555.45. The rule set forth in this section will also apply where there is more than one surviving partner.

§ 555.59 Right of succession by certain persons.

(a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same business premises for the remainder of the term of license or permit. These persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right of succession, the person or persons continuing the business or operations shall submit the license or permit and all copies furnished with the license or permit for endorsement of the succession to the Chief, Firearms and Explosives Licensing Center, within 30 days from the date on which the successor begins to carry on the business or operations.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

§ 555.60 Certain continuances of business or operations.

A licensee or permittee who furnishes his license or permit to the Chief, Firearms and Explosives Licensing Center,

for correction, amendment, or endorsement, as provided in this subpart, may continue his business or operations while awaiting its return.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

§ 555.61 Discontinuance of business or operations.

Where an explosive materials business or operations is either discontinued or succeeded by a new owner, the owner of the business or operations discontinued or succeeded shall, within 30 days, furnish notification of the discontinuance or succession and submit his license or permit and any copies furnished with the license or permit to the Chief, Firearms and Explosives Licensing Center. (See also § 555.128.)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

§ 555.62 State or other law.

A license or permit issued under this part confers no right or privilege to conduct business or operations, including storage, contrary to State or other law. The holder of a license or permit issued under this part is not, by reason of the rights and privileges granted by that license or permit, immune from punishment for conducting an explosive materials business or operations in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

§ 555.63 Explosives magazine changes.

(a) *General.* (1) The requirements of this section are applicable to magazines used for other than temporary (under 24 hours) storage of explosives.

(2) A magazine is considered suitable for the storage of explosives if the construction requirements of this part are met during the time explosives are stored in the magazine.

(3) A magazine is considered suitable for the storage of explosives if positioned in accordance with the applicable table of distances as specified in this part during the time explosives are stored in the magazine.

(4) For the purposes of this section, notification of the regional director (compliance) may be by telephone or in writing. However, if notification of the regional director (compliance) is in writing it must be at least three business days in advance of making changes in construction to an existing magazine or constructing a new magazine, and at least five business days in advance of using any reconstructed magazine or added magazine for the storage of explosives.

(b) *Exception.* Mobile or portable type 5 magazines are exempt from the requirements of paragraphs (c) and (d) of this section, but must otherwise be in compliance with paragraphs (a) (2) and (3) of this section during the time explosives are stored in such magazines.

(c) *Changes in magazine construction.* A licensee or permittee who intends to make changes in construction of an existing magazine shall notify the regional director (compliance) describing the proposed changes prior to making any changes. Unless otherwise advised by the regional director (compliance), changes in construction may commence after explosives are removed from the magazine. Explosives may not be stored in a reconstructed magazine before the regional director (compliance) has been notified in accordance with paragraph (a)(4) of this section that the changes have been completed.

(d) *Magazines acquired or constructed after permit or license is issued.* A licensee or permittee who intends to construct or acquire additional magazines shall notify the regional director (compliance) in accordance with paragraph (a)(4) of this section describing the additional magazines and the class and quantity of explosives to be stored in the magazine. Unless otherwise advised by the regional director (compliance), additional magazines may be constructed, or acquired magazines may be used for the storage of explosives. Explosives must not be stored in a magazine under construction. The regional director (compliance) must be notified that construction has been completed.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-400, 63 FR 45002, Aug. 24, 1998]

Subpart E—License and Permit Proceedings

§ 555.71 Opportunity for compliance.

Except in cases of willfulness or those in which the public interest requires otherwise, and the regional director (compliance) so alleges in the notice of denial of an application or revocation of a license or permit, no license or permit will be revoked or renewal application denied without first calling to the attention of the licensee or permittee the reasons for the contemplated action and affording him an opportunity to demonstrate or achieve compliance with all lawful requirements and to submit facts, arguments, or proposals of adjustment. The notice of contemplated action, ATF F 5400.12, will afford the licensee or permittee 15 days from the date of receipt of the notice to respond. If no response is received within the 15 days, or if after consideration of relevant matters presented by the licensee or permittee, the regional director (compliance) finds that the licensee or permittee is not likely to abide by the law and regulations, he will proceed as provided in § 555.74.

[T.D. ATF-87, 46 FR 40384, Aug. 7 1981, as amended by T.D. ATF-446, 66 FR 16602, Mar. 27, 2001]

§ 555.72 Denial of initial application.

Whenever the regional director (compliance) has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of § 555.49, he shall issue a notice of denial on ATF F 5400.11. The notice will set forth the matters of fact and law relied upon in determining that the application should be denied, and will afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked “Disapproved”, will be returned to the applicant.

§ 555.73 Hearing after initial application is denied.

If the applicant for an original license or permit desires a hearing, he